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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**

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7 CAROL MAINOR ,

8 Plaintiff,

9 v.

10 EXPERIAN INFORMATION SOLUTIONS,
11 INC.,

12 Defendants.
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Case No. 2:16-cv-00183-RFB-PAL

ORDER

14 Before the Court for consideration is Plaintiff's Motion For Leave To File Second
15 Amended and Supplemental Complaint. (ECF No. 115). The Court denies this motion.
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17 **I. BACKGROUND**

18 The Court makes the following factual findings. Plaintiff filed an individual action against
19 Defendant on January 29, 2016. Plaintiff's current motion is based upon a document—the
20 February 29, 2016 ACDV—that was produced on June 6, 2016. Discovery was initially scheduled
21 to close on December 8, 2016. Plaintiff filed a Motion for Leave to File a Supplemental or
22 Amended Complaint on December 5, 2016. (ECF No. 34) This Motion sought to expand Plaintiff's
23 claim to include an additional claim(s) and convert it into a class action. On September 29, 2017,
24 the Court granted Plaintiff's Motion. (ECF No. 51). On November 9, 2017, the Court upon motion
25 of the Plaintiff reopened discovery as to the class claims only. (ECF No. 59) Class discovery closed
26 on June 13, 2018. On August 16, 2018, the Court granted Experian's Motion to Dismiss the
27 individual and class claims added in Plaintiff's Supplemental Complaint. (ECF No. 114). This
28 order allowed only Plaintiff's original claim as to a violation of Section 1681i of the Fair Credit

1 Reporting Act (“FCRA”) for failing to conduct a reasonable reinvestigation. On August 26, 2018,
2 the Plaintiff filed a Motion for Leave to File Second Amended and Supplemental Complaint. (ECF
3 No. 115). This second Motion seeks add an additional individual and class action claim regarding
4 the violation of Section 1681e(a) of FCRA.

5 6 **II. LEGAL STANDARD**

7 Rule 15(a) requires that motions to amend be liberally granted. Fed. R. Civ. P. 15(a).

8 Rule 15(d) provides that “o[n] motion and reasonable notice, the court may, on just terms,
9 permit a party to serve a supplemental pleading setting out any transaction, occurrence, or event
10 that happened after the date of the pleading to be supplemented.” Fed. R. Civ. P. 15(d). “Rule
11 15(d) provides a mechanism for parties to file additional causes of action based on facts that didn’t
12 exist when the original complaint was filed.” Eid v. Alaska Airlines, Inc., 621 F.3d 858, 874 (9th
13 Cir. 2010)(internal citations omitted).

14 Motions to amend may be denied on the basis of such factors as undue delay, bad faith,
15 failure to cure deficiencies by amendments previously allowed, undue prejudice, and futility of the
16 amendment. Foman v. Davis, 371 U.S. 178, 182 (1962).

17 Rule 16(b)(4) requires that a Plaintiff demonstrate “good cause” to amend a scheduling
18 order, including the amendment of pleadings after the time permitted by a court for such
19 amendment. Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 608 (9th Cir. 1992).

20 21 **III. DISCUSSION**

22 The Court denies the Plaintiff’s Motion she has failed to establish good cause. Moreover,
23 even if the Court were to apply to the more liberal standard under Rule 15, the Court finds that
24 there has been undue delay and that unfair prejudice to the Defendant would result from
25 amendment.

26 The Court notes that it had granted the Plaintiff leave (ECF No. 114) to file a second motion
27 to amend and establish good cause for such an amendment. The Court finds that “good cause” is
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1 required for the Plaintiff to prevail, as it was not the Court's intention, after such extensive
2 discovery, to permit Plaintiff to freely amend her Complaint.

3 The Court finds that the Plaintiff has had the information and documents to amend her
4 Complaint as suggested in the instant motion since at least June 6, 2016 when the ACDV from
5 February 2016 was produced. This was more than a month before the July 26, 2016 deadline for
6 amendment. Indeed, despite having this information, Plaintiff still did not seek to add the instant
7 claims in her first Supplemental Complaint filed on October 13, 2017. Plaintiff has known of the
8 basis for proposed amendment for over two years. The Court finds it irrelevant as to what position
9 Defendant may have taken as to the relevant statutes, as Plaintiff has the obligation to be cognizant
10 of and diligent regarding her own potential claims. Based upon these facts and the totality of the
11 record here, the Court finds that Plaintiff unreasonably and unduly delayed seeking amendment of
12 her Complaint for the claims in the instant motion.

13 Moreover, even if the Court were to apply the more liberal standard, the Court still finds
14 that amendment at this juncture would be unduly prejudicial to the Defendant. There has been
15 extensive discovery in this case. Plaintiff has been permitted to reopen discovery once already by
16 this Court. This discovery has proceeded along specified theories of liability. Allowing Plaintiff
17 to yet again amend her Complaint would be tantamount to allowing a revolving door of theories
18 of liability in this case. It must stop here.

19 Accordingly,

20 **IT IS HEREBY ORDERED** that the Motion for Leave to File Second Amended
21 Complaint (ECF No. 115) is DENIED. The Motion to Extend Time (ECF No. 119) is DENIED.

22 **IT IS FURTHER ORDERED** that, for the reasons stated in the Motion, the Motion to
23 Seal (ECF No. 117) is GRANTED.

24 **IT IS FURTHER ORDERED** that dispositive motions are due by **February 11, 2019**
25 with responses due **March 4, 2019** and replies due **March 25, 2019**. ALL briefs, excluding
26 exhibits, will be limited to 15 pages with the possibility of sanctions, up to and including
27 dispositive sanctions for violation of this limitation.
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1 DATED this 22nd day of January, 2019.

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3 **RICHARD F. BOULWARE, II**
4 **UNITED STATES DISTRICT JUDGE**

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